

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,735</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">5/2/2023</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">01</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

<p>7a. Applicant(s) Person ID 65683 New to system <input type="checkbox"/> Add Seq# <u>1</u></p> <p style="margin-top: 20px;">NEOSHONUF LLC Attn: TOM PATRICK 40 W BROAD ST STE#500 GREENSVILLE, SC 29601</p>	<p>7c. Landowner(s) Person ID _____</p>
<p>7b. Landowner(s) Person ID 65683 New to system <input type="checkbox"/> Add Seq# <u>1</u></p> <p style="margin-top: 20px;">7a.</p>	<p>7e. Miscellaneous Person ID _____</p>

<p>8. WUR Correspondent Person ID 65683 New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-top: 20px;">7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 40px;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p style="margin-left: 40px;"><input type="checkbox"/> IRR <input checked="" type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p style="margin-left: 40px;"><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p style="margin-left: 40px;"><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p style="margin-left: 40px;"><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2024 11. Perfection Date: 12/31/2028 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

Date Prepared: **1/26/2023** By: **LHH**
Date Entered: 5/4/2023 LMoody

4/21/2023
KAB

File No. **50,735** 15. Formation Code: Drainage Basin: **NEOSHO RIVER** County: **NO** Special Use: Stream: **NEOSHO RIVER**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
		ENT	90316	SW NW SW	32	29S	21E	2	1693	5109	10,000	800	10,000	800	NONE
NOTE: This PD does not overlap PDIV: 83903															

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2024** Date Acceptable Meter Installed _____

21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files			
MOD	DEL	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼							
ENT	PUSE	S	T	R	ID																			
CHK	53053	31	29S	21E	▲ 2	WATERFOWL MARSH (SE SW) - NORTH PARK																7a	NO	47310; 49241
CHK	53054	31	29S	21E	▲ 3	WATERFOWL MARSH L-8, L-9 & L-12 - NORTH PARK																7a	NO	47310; 49241
CHK	53055	36	29S	20E	▲ 1	WATERFOWL MARSH L-4 & L-5 - NORTH PARK																7a	NO	47310; 49241
CHK	53102	24	30S	20E	▲ 2	WATERFOWL MARSHES IN L-1, L-3 & L-4 & NENE - HAY BARNS																7a	NO	44076; 47311; 47312; & 49241
CHK	53103	13	30S	20E	▲ 2	WATERFOWL MARSHES IN L-6, L-7 - HAY BARNS																7a	NO	44076; 47311; 47312; & 49241
CHK	54359	6	30S	21E	▲ 2	WATERFOWL MARSHES IN LOT 5 & LOT 6 - GOLEY PLACE																7a	NO	44979; 47308; 49241
CHK	54870	6	30S	21E	▲ 3	WATERFOWL MARSH IN LOT 11 (NE NE) - GRANDPA'S 40																7a	NO	47309; 49241
ENT	71368	6	30S	21E	▲	WATERFOWL MARSH IN L-4 (SW NE), L-12 (NW NE), & SE NE																7a	NO	none
CHK	60500	18	30S	21E	▲ 5	WATERFOWL MARSHES IN L-5, L-6, L-7 & L-8 - HAY BARNS																7a	NO	44076; 47311; 47312; & 49241
CHK	67352	19	30S	21E	▲ 3	WATERFOWL MARSHES IN L-8 & NENW - HAY BARNS																7a	NO	44076; 47311; 47312; & 49241

Comments: **Special conditions: Special metering requirements**

See revised memo dated April 25, 2023.

**KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources**

M E M O R A N D U M

TO: Files

DATE: January 26, 2023

FROM: Lloyd Hemphill

RE: New Application, File No. 50,735

Tom Patrick, on behalf of Neoshonuf LLC, has filed the new application referred to above proposing to appropriate 800 acre-feet of surface water at a diversion rate of 10,000 gallons per minute from one pumpsite on the main channel of the Neosho River, for recreational use in a series of marshes. The water will be used to fill and maintain water levels in the marshes (i.e. offset evaporative and seepage losses). This application will allow water to be pumped directly from the main channel of the river (when flows are adequate, and permission is granted). The diverted water will be conveyed down the old cut-off channel of the river and recovered at downstream pumpsites which are near individual marshes, in multiple Sections. The proposed place of use is a partial overlap of File Nos. 44,076; 44,979; 47,308; 47,309; 47,310; 47,311; 47,312, and 49,241. The applicant is also proposing to flood about 106 acres of new marsh in the Northeast Quarter of Section 6, Township 30 South, Range 21 East. The individual authorized places of use for the overlapping files are completely encompassed by the proposed place of use, except for File No. 49,241 which includes additional land under other ownership. The intent of this permit is to cover only property owned by the applicant (unlike File No. 49,241). Also, the entire place of use cannot be physically served by all of the individual water rights. Therefore, a complete overlap is not practical or desired and this application meets the conditions of K.A.R.5-3-5n. The proposed point of diversion is an offset of the pumpsite authorized by File No. 49,241 and there will be no overlap. The point of diversion is located in the Southwest Quarter of Section 32, Township 29 South, Range 21 East, Neosho County, on property owned by Beachner Bros. Inc. The applicant has signed the application stating that they have legal access to the point of diversion. The applicant owns all proposed places of use.

The following table summarizes the authorized quantities, marsh acres, and the equivalent depth of water over the marsh area. Files with an old channel source authorize a quantity of 349.56 acre-feet for 624 acres of marsh, equivalent to 0.6 feet of water per acre of marsh. The existing main channel file (49,241) authorizes a quantity of 1425 acre-feet for 1105 acres of marsh, equivalent to 1.3 feet of water per acre of marsh. The proposed main channel file (50,735) authorizes a quantity of 800 acre-feet for 730 acres of marsh, equivalent to 1.1 feet of water per acre of marsh. The requested quantity appears reasonable even if both the old channel and main channel files are combined. The new application will be all additional water when combined with the existing senior files as discussed in the following paragraph.

File No.	Source	Authorized Quantity (AF)	Additional Quantity (AF)	Marsh Acres (ac.)	Equivalent Water Depth (FT)
47309	old-channel	89	89	36	2.5
47310	old-channel	73	73	150	0.5
44979	old-channel	17	17	67	1.2
47308	old-channel	81.06	64.06	0	
44076	old-channel	22	22	371	0.3
47311	old-channel	34	12	0	
47312	old-channel	94.5	72.5	0	
Old Channel Total:			349.56	624	0.6
49241	main channel	1425	1425	1105*	1.3
50735	main channel	800	800	730**	1.1
*481 acres of marsh are not associated with File No. 50,735.					
** 106 acres are new marshes.					

NOTE: During the review and approval of File No. 49,241, it was determined that quantity of water limitations with the senior water rights would be unnecessary. A reasonable use of water is encouraged by economics (the applicant is a for-profit business) and the desire to preserve natural resources. There is no reason for the owner to apply more than a reasonable quantity of water, and in fact would be detrimental to the operation of these waterfowl marshes. Water levels must be maintained within strict tolerances to prevent damaging the related infrastructure (roads, bridges, hunting blinds, etc.). The marshes are filled to the specific depth of water needed to partially submerge the base of standing feed plants and exceeding this depth would prevent waterfowl from migrating onto the marsh, thus defying the purpose for its establishment. These marshes are all controlled by structures of minimal height (levees and berms) that retain the water within the marshes, physically limiting the volume of water that can be pumped into any individual marsh area. All these factors ensure that these wildlife marshes will be operated and managed within reasonable limitations. These marshes have operated for many years, and all of these recreational users are certainly familiar with proper management of the water supply. The applicant has indicated that their primary goal will be to develop this permit and thus will not use File No. 49,241 unless they reach the authorized quantity. File No. 50,735 has proposed an average of 1.1 feet of water per acre of marsh which is not an excessive quantity when compared to similar projects in the area. A quantity limitation between File Nos. 49,241 and 50,735 appears unnecessary as well.

An additional permit condition was imposed upon File No. 49,241 by a Consent Agreement and Final Order dated June 7, 2017. To maintain consistency, a similar condition will be included on this new permit. This condition will be as follows:

Neoshonuf, LLC - Memorandum
File No. 50,735
Page 3

That a detailed accounting must be kept whenever water is pumped and subsequently recovered under this permit. This accounting must allow use under this permit to be differentiated from all other permits and water rights. When this permit is being exercised, any water recovered at a downstream pumpsite will be attributed to File No. 50,735 instead of a diversion attributable to any other overlapping permit or water right at the same pumpsite.

Notification letters were sent to upstream and downstream landowners on December 9, 2022. No response was received. The Cottonwood and Neosho River Water Assurance District No. 3 was also informed of the pending application. The District responded with general comments but nothing to prevent the application from being approved.

There are multiple surface water appropriations within a two (2) mile radius of the proposed point of diversion, located both upstream and downstream of the proposed pumpsite. The majority of these are also for recreational projects, are designed to take advantage of high flow conditions on the Neosho River and are used primarily during the fall season.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. This pumpsite will be offset from the point of diversion authorized by Appropriation of Water, File No. 49,241 and separate accounting will be kept for each file.

The applicant has signed a Neosho River Assurance District and Minimum Desirable Streamflow (MDS) form acknowledging that there may be times when diversion of water will not be allowed. The proposed point of diversion is located above the Minimum Desirable Streamflow (MDS) gage near Parsons so this permit will be subject to MDS administration and streamflows at this gage.

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

The DWR Water Structures Program has reviewed the existing structures under several water structures numbers and have issued permits, where jurisdictional. A floodplain fill application (WSN: LNO-172) was received on July 20, 2022 related to the new marshes in the proposed place of use. This permit was approved on August 23, 2022. According to the engineering drawings, the new structures will add approximately 70 acres of new marsh land (more acres have been included on the permit for flexibility) and the maximum depth is approximately 2 feet.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) has confirmed that there are no NRCS easements on this property (See April 15, 2022 e-mail from Brent Turney). This is a critical determination because any property that has an NRCS easement must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved.

See revised memo dated April 25, 2023.

Neoshonuf, LLC - Memorandum

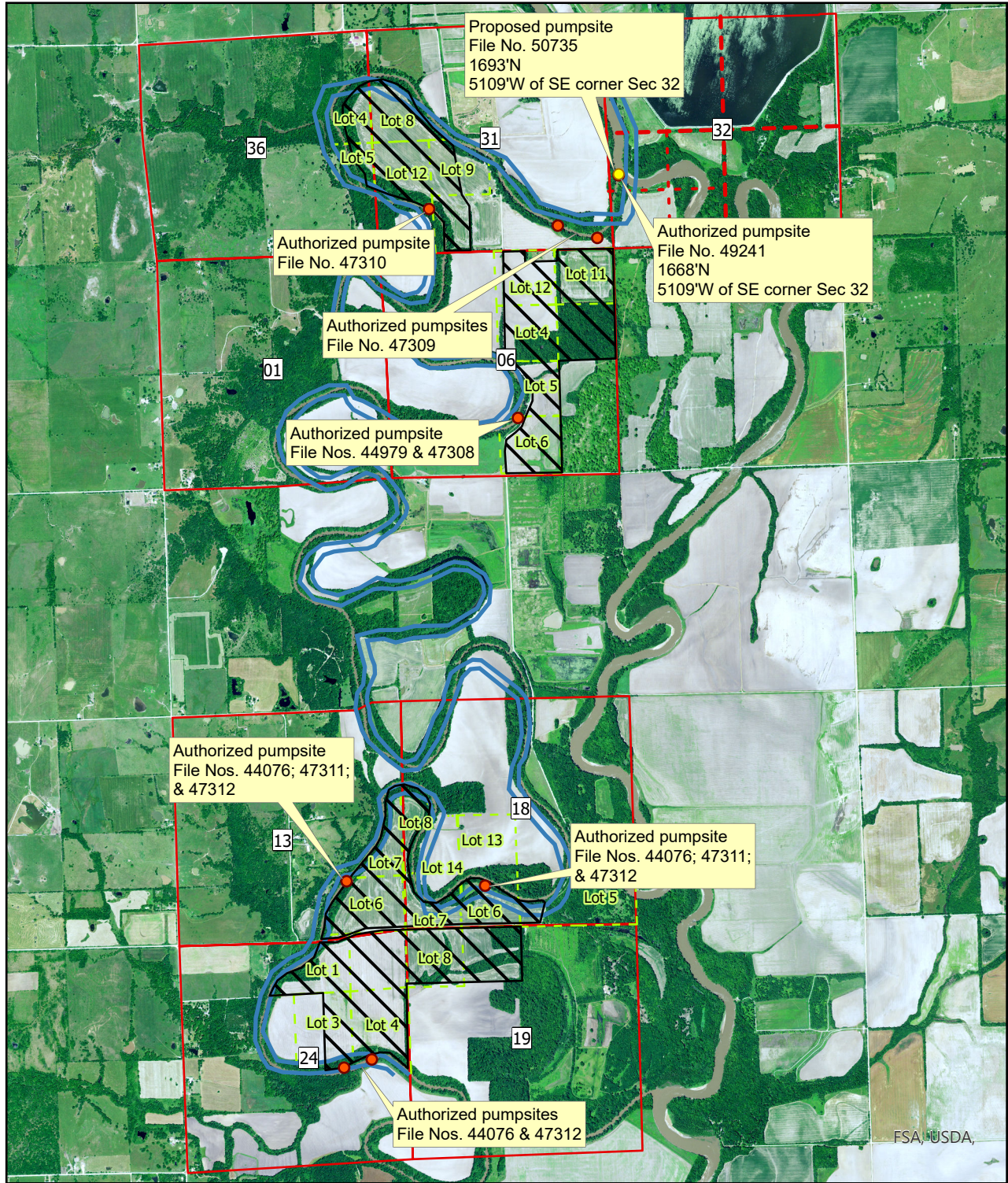
File No. 50,735

Page 4

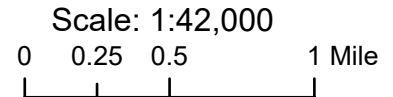
Based on the above discussion, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is typically limited to fall "off-season" pumping, the project is properly permitted by the Structures Program, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

NEW APPLICATION FILE NO. 50735



Map prepared by: LHH/TFO 12.28.22



**NEARBY LANDOWNERS ADJACENT TO THE STREAM LOCATED WITHIN 1/2 MILE UPSTREAM OR
DOWNSTREAM OF THE PROPOSED POINT OF DIVERSION**

APPLICATION, FILE NO. 50735

1. FORESTRY FISH & GAME COMM
512 SE 25TH AVE
PRATT, KS 67124
2. CHAD E NEWBERRY & DARREN L NEWBERRY
20935 80TH RD
ST PAUL, KS 66771
3. BEACHNER BROS INC
PO BOX 128
ST PAUL, KS 66771
4. NEOSHONUF LLC [APPLICANT]
Attn: KAT HALL
40 W BROAD ST #STE 500
GREENVILLE, SC 29601
5. JFD LLC
105 W LAKE RD
FARLINGTON, KS 66734



Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615



Phone: 785-296-5733
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

December 23, 2022

COTTONWOOD AND NEOSHO RIVER WATER ASSURANCE
DISTRICT NO 3
% DOUG HANEY
212 SW 7TH STREET
TOPEKA KS 66603-3717

Re: Pending Application, File No. 50,735

Dear Mr. Haney:

This is to advise you that Tom Patrick, on behalf of Neoshonuf, LLC, has filed the application referred to above for a permit to appropriate 800 acre-feet of surface water per calendar year from the Neosho River, for recreational use, to be diverted at the rate of 10,000 gallons per minute. The point of diversion (pump site) is located in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter, of Section 32, in Township 29 South, Range 21 East, Neosho County, Kansas. To a large extent this proposed diversion will replace diversion currently authorized under, Appropriation of Water, File No. 49,241.

You can find the application and site map posted by the file number referenced above, under the links "Topeka Field Office" and "2022" at: <http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

You are being notified of receipt of this application in order that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. If you have any questions, please contact me at (785) 296-8682. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

A handwritten signature in blue ink that reads "Lloyd Hemphill".

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

Hemphill, Lloyd [KDA]

From: Hemphill, Lloyd [KDA]
Sent: Friday, December 30, 2022 9:52 AM
To: Hemphill, Lloyd [KDA]
Subject: FW: Application, File No. 50735 (Neoshonuf, LLC)

From: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>
Sent: Friday, December 30, 2022 7:46 AM
To: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Subject: RE: Application, File No. 50735 (Neoshonuf, LLC)

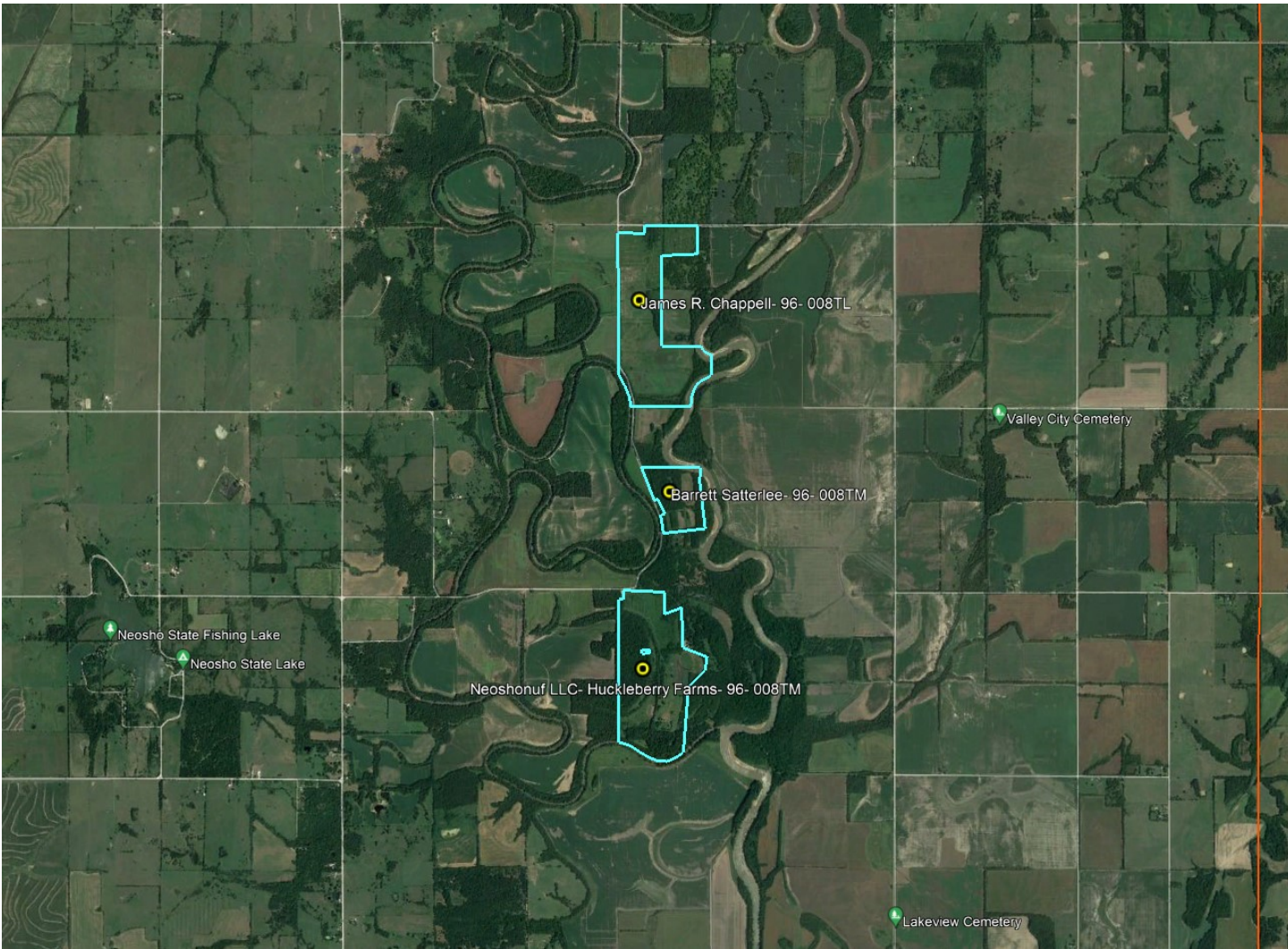
EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Lloyd,

It looks like this application is in the clear. See attached image below. The blue lines represent our easements.

Hope you had a great Christmas, and will have a happy new years.

Brent



Brent A. Turney
Easement Specialist

USDA Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE
3020 West 18th Avenue, Suite B, Emporia, Kansas, 66801
p: (620) 487-3413 | c: (620) 682-3538
e: brent.turney@usda.gov | w: www.ks.nrcs.usda.gov

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From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Tuesday, December 27, 2022 10:15 AM
To: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>
Subject: Application, File No. 50735 (Neoshonuf, LLC)

Hello Brent,

Tom Patrick of Neoshonuf, LLC has filed application File No. 50,735 proposing to pump water from the Neosho River to fill a series of wetlands adjacent to the cutoff channel of the river in Neosho County. A map is attached showing the location of the wetlands. Most of these areas are already covered under numerous senior water rights, but a new marsh is proposed in the Northeast Quarter of Section 6, Township 30 South, Range 21 East.

The diversion proposed by this application is largely to replace diversions currently authorized under Appropriation of Water, File No. 49,241. This application was filed to cover diversions to the applicant's property only.

Can you verify whether there are any NRCS easements associated with these properties?

You can more information posted by the file number, under the links "Topeka Field Office" and "2022" at:
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

Thanks,
Lloyd

Lloyd Hemphill, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources, Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615
Office: (785) 296-5733
NOTE NEW ADDRESS

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KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 25, 2023

FROM: Lloyd Hemphill

RE: New Application, File No. 50,735

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File No.	Source	Authorized Quantity (AF)	Additional Quantity (AF)	Marsh Acres (ac.)	Equivalent Water Depth (FT)
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Old Channel Total:			349.56	624	0.6
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NOTE: During the review and approval of File No. 49,241, it was determined that quantity of water limitations with the senior water rights would be unnecessary. A reasonable use of water is encouraged by economics (the applicant is a for-profit business) and the desire to preserve natural resources. There is no reason for the owner to apply more than a reasonable quantity of water, and in fact would be detrimental to the operation of these waterfowl marshes. Water levels must be maintained within strict tolerances to prevent damaging the related infrastructure (roads, bridges, hunting blinds, etc.). The marshes are filled to the specific depth of water needed to partially submerge the base of standing feed plants and exceeding this depth would prevent waterfowl from migrating onto the marsh, thus defying the purpose for its establishment. These marshes are all controlled by structures of minimal height (levees and berms) that retain the water within the marshes, physically limiting the volume of water that can be pumped into any individual marsh area. All these factors ensure that these wildlife marshes will be operated and managed within reasonable limitations. These marshes have operated for many years, and the applicant is familiar with proper management of the water supply. The applicant has indicated that their primary goal will be to develop (perfect) this permit and thus will not use File No. 49,241 unless they reach the authorized quantity. File No. 50,735 has proposed an average of 1.1 feet of water per acre of marsh which is not an excessive quantity when compared to similar projects in the area. A quantity limitation between File Nos. 49,241 and 50,735 appears unnecessary as well.

The structure of this permit was discussed by various personnel in the DWR Water Appropriation Program and the DWR Topeka Field Office, including Lane Letourneau, Kristen Baum, Kenneth Kopp, Justin Koehn, Brett Bungler, and Lloyd Hemphill. Based on this discussion, the permit will identify the primary point of diversion (pumpsite on the main channel Neosho River) and eight re-diversion points on the old channel. These re-diversion points correspond to the points of diversion authorized by overlapping senior files (old channel source).

To avoid unnecessary clutter on annual water use reports, only the primary point of diversion will be recorded in WRIS. Also, two special conditions will be added to this permit as follows:

14. That a detailed accounting must be kept whenever water is pumped and subsequently recovered under this permit such that the quantity of water applied to any individual marsh within the authorized place of use can be readily determined.

21. That the re-diversion of water under the authority of this permit, at the authorized points located downstream shall only occur when the primary pumpsite is actively diverting and shall be limited to the rate at which the primary pumpsite is operating.

These special conditions are consistent with the permitting of Appropriation of Water, File No. 49,241.

Notification letters were sent to upstream and downstream landowners on December 9, 2022. No response was received. The Cottonwood and Neosho River Water Assurance District No. 3 was also informed of the pending application. The District responded with general comments but nothing to prevent the application from being approved.

There are multiple surface water appropriations within a two (2) mile radius of the proposed point of diversion, located both upstream and downstream of the proposed pumpsite. The majority of these are also for recreational projects, are designed to take advantage of high flow conditions on the Neosho River and are used primarily during the fall season.

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. This pumpsite will be offset from the point of diversion authorized by Appropriation of Water, File No. 49,241 and separate accounting will be kept for each file.

The applicant has signed a Neosho River Assurance District and Minimum Desirable Streamflow (MDS) form acknowledging that there may be times when diversion of water will not be allowed. The proposed point of diversion is located above the Minimum Desirable Streamflow (MDS) gage near Parsons so this permit will be subject to MDS administration and streamflows at this gage.

The DWR Water Structures Program has reviewed the existing structures under several water structures numbers and have issued permits, where jurisdictional. A floodplain fill application (WSN: LNO-172) was received on July 20, 2022 related to the new marshes in the proposed place of use. This permit was approved on August 23, 2022. According to the engineering drawings, the new structures will add approximately 70 acres of new marshland (more acres have been included on the permit for flexibility) and the maximum depth is approximately 2 feet.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) has confirmed that there are no NRCS easements on this property (See April 15, 2022 e-mail from Brent Turney). This is a critical determination because any property that has an NRCS easement must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved.

Based on the above discussion, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is typically limited to fall "off-season" pumping, the project is properly permitted by the Structures Program, special conditions have been formed to address accounting of water use, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

NEOSHONUF LLC
Attn: TOM PATRICK
40 W BROAD ST STE#500
GREENSVILLE, SC 29601

RE: Appropriation of Water, File No. 50,735

Dear Mr. Patrick:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit. **Please note that the re-diversion of water under the authority of this permit, at the authorized points located downstream shall only occur when the primary pumpsite is actively diverting and shall be limited to the rate at which the primary pumpsite is operating.**

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

Your attention is directed to the terms, conditions, and limitations specified in these approval documents. Acceptable water flowmeter(s) must be installed on the diversion works and re-diversion points authorized by this permit prior to using water. **A detailed accounting must be kept whenever water is pumped and subsequently recovered under this permit such that the quantity of water applied to any individual marsh within the authorized place of use can be readily determined.** An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information is available on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance, please contact our office at 785-564-6640 or the local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:llh
Enclosure(s)
pc: Topeka Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,735** of the applicant

**NEOSHONUF LLC
40 W BROAD ST STE 500
GREENSVILLE SC 29601**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

That the priority date assigned to such application is **March 9, 2022**.

2. That the water sought to be appropriated shall be used for recreational use for filling and maintaining water levels in multiple waterfowl marshes, described as follows:

a waterfowl marsh located in Lot 4 and Lot 5 of Section 36, Township 29 South, Range 20 East, and in Lot 8, Lot 9, and Lot 12, and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 31, Township 29 South, Range 21 East; waterfowl marshes located in Lot 4, Lot 5, Lot 6, Lot 11, and Lot 12, and the Southeast Quarter of the Northeast (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Quarter of Section 6, Township 30 South, Range 21 East; waterfowl marshes located in Lot 6 and Lot 7 of Section 13, and in Lot 1, Lot 3, and Lot 4, and the Northeast of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 24, in Township 30 South, Range 20 East, and in Lot 5, Lot 6, Lot 7, and Lot 8 of Section 18, and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 8 of Section 19, in Township 30 South, Range 21 East; all in Neosho County, Kansas.

3. That the authorized source from which the appropriation shall be made is surface water from the Neosho River, to be diverted at a primary point of diversion, described as:

one (1) pumpsite located in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 32, more particularly described as being near a point 1,693 feet North and 5,109 feet West of the Southeast corner of said section, in Township 29 South, Range 21 East, Neosho County, Kansas,

and to be re-diverted at points located downstream, described as:

one (1) point located in Lot 11 of Section 31, more particularly described as being near a point 275 feet North and 400 feet West of the Southeast corner of said section, in Township 29 South, Range 21 East, and

one (1) point located in Lot 11 of Section 31, more particularly described as being near a point 599 feet North and 1,305 feet West of the Southeast corner of said section, in Township 29 South, Range 21 East, and

one (1) point located in Lot 12 of Section 31, more particularly described as being near a point 1,098 feet North and 4,271 feet West of the Southeast corner of said section, in Township 29 South, Range 21 East, and

one (1) point located in Lot 5 of Section 6, more particularly described as being near a point 1,406 feet North and 2,322 feet West of the Southeast corner of said section, in Township 30 South, Range 21 East, and

one (1) point located in Lot 6 of Section 18, more particularly described as being near a point 1,105 feet North and 3,459 feet West of the Southeast corner of said section, in Township 30 South, Range 21 East, and

one (1) point located in Lot 6 of Section 13, more particularly described as being near a point 1,227 feet North and 1,290 feet West of the Southeast corner of said section, in Township 30 South, Range 20 East, and

one (1) point located in Lot 3 of Section 24, more particularly described as being near a point 2,250 feet North and 1,500 feet West of the Southeast corner of said section, in Township 30 South, Range 20 East, and

one (1) point located in Lot 4 of Section 24, more particularly described as being near a point 2,458 feet North and 858 feet West of the Southeast corner of said section, in Township 30 South, Range 20 East, and

all in Neosho County, KS, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **10,000 gallons per minute (22.28 c.f.s.)** and to a quantity not to exceed **800 acre-feet** of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2024**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2028**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually

used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That acceptable water flow meters shall be installed and maintained on the diversion works and re-diversion points authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. These water flow meters shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

14. That a detailed accounting must be kept whenever water is pumped and subsequently recovered under this permit such that the quantity of water applied to any individual marsh within the authorized place of use can be readily determined.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

17. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**
(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,735** of the applicant

**NEOSHONUF LLC
40 W BROAD ST STE 500
GREENSVILLE SC 29601**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **March 9, 2022**.
2. That the water sought to be appropriated shall be used for recreational use for filling and maintaining water levels in multiple waterfowl marshes, described as follows:

a waterfowl marsh located in Lot 4 and Lot 5 of Section 36, Township 29 South, Range 20 East, and in Lot 8, Lot 9, and Lot 12, and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 31, Township 29 South, Range 21 East; waterfowl marshes located in Lot 4, Lot 5, Lot 6, Lot 11, and Lot 12, and the Southeast Quarter of the Northeast (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Quarter of Section 6, Township 30 South, Range 21 East; waterfowl marshes located in Lot 6 and Lot 7 of Section 13, and in Lot 1, Lot 3, and Lot 4, and the Northeast of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 24, in Township 30 South, Range 20 East, and in Lot 5, Lot 6, Lot 7, and Lot 8 of Section 18, and the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot 8 of Section 19, in Township 30 South, Range 21 East; all in Neosho County, Kansas.

3. That the authorized source from which the appropriation shall be made is surface water from the Neosho River, to be diverted at a primary point of diversion, described as:

one (1) pumpsite located in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 32, more particularly described as being near a point 1,693 feet North and 5,109 feet West of the Southeast corner of said section, in Township 29 South, Range 21 East, Neosho County, Kansas,

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all in Neosho County, KS, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **10,000 gallons per minute (22.28 c.f.s.)** and to a quantity not to exceed **800 acre-feet** of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2024**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2028**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That acceptable water flow meters shall be installed and maintained on the diversion works and re-diversion points authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. These water flow meters shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

14. That a detailed accounting must be kept whenever water is pumped and subsequently recovered under this permit such that the quantity of water applied to any individual marsh within the authorized place of use can be readily determined.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

17. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

21. That the re-diversion of water under the authority of this permit, at the authorized points located downstream shall only occur when the primary pumpsite is actively diverting and shall be limited to the rate at which the primary pumpsite is operating.

21. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

Ordered this 2 day of May, 2023, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 2 day of May, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Ashlee Freeman

Notary Public



1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

May 8, 2023

NEOSHONUF LLC
Attn: TOM PATRICK
40 W BROAD ST STE#500
GREENSVILLE, SC 29601

RE: Appropriation of Water, File No. 50,735

Dear Mr. Patrick:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit. **Please note that the re-diversion of water under the authority of this permit, at the authorized points located downstream shall only occur when the primary pumpsite is actively diverting and shall be limited to the rate at which the primary pumpsite is operating.**

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

Your attention is directed to the terms, conditions, and limitations specified in these approval documents. Acceptable water flowmeter(s) must be installed on the diversion works and re-diversion points authorized by this permit prior to using water. **A detailed accounting must be kept whenever water is pumped and subsequently recovered under this permit such that the quantity of water applied to any individual marsh within the authorized place of use can be readily determined.** An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information is available on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance, please contact our office at 785-564-6640 or the local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:lh
Enclosure(s)
pc: Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer, or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

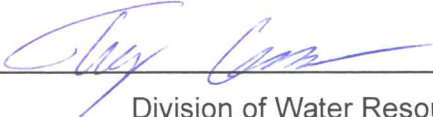
CERTIFICATE OF SERVICE

On this 8 day of May, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,735, dated May 2, 2023, was mailed postage prepaid, first class, US mail to the following:

NEOSHONUF LLC
40 W BROAD ST STE 500
GREENSVILLE SC 29601

With photocopies to:

Topeka Field Office



Division of Water Resources